

[FR Doc. 95-5976 Filed 3-14-95; 8:45 am]  
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#### 40 CFR Part 180

[PP 4F4373/R2113; FRL-4940-9]

RIN 2070-AB78

#### Pesticide Tolerance for Avermectin B<sub>1</sub> and Its Delta-8,9-Isomer

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This document establishes tolerances for residues of the insecticide avermectin B<sub>1</sub> and its delta-8,9-isomer in or on the raw agricultural commodity head lettuce. Merck Research Laboratories requested this regulation to establish maximum permissible levels for residues of the insecticide.

**EFFECTIVE DATE:** This regulation becomes effective March 15, 1995.

**ADDRESSES:** Written objections and hearing requests, identified by the document control number, [PP 4F4373/R2113], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

**FOR FURTHER INFORMATION CONTACT:** By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100; e-mail: LaRocca.George@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the **Federal Register** of May 29, 1991 (56 FR 24189), which announced that Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc.,

Hillsborough Rd., Three Bridges, NJ 08887, had submitted a pesticide petition (PP 1F3973) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish tolerances for residues of the pesticide abamectin (same as avermectin B<sub>1</sub>) and its delta-8,9-isomer in or on the raw agricultural commodities (RAC) lettuce at 0.05 part per million (ppm) and almonds and walnuts at 0.005 ppm.

In a letter dated June 9, 1994, Merck Research Laboratories requested a separation of PP 1F3973 into two distinct petitions. Almonds and walnuts were to be processed under PP 1F3973, and head lettuce was assigned a new petition number, PP 4F4373. No comments were received on the notice of filing (56 FR 24189, May 29, 1991).

The data submitted in support of this tolerance and other relevant material have been reviewed. The toxicological and metabolism data and analytical methods for enforcement purposes considered in support of these tolerances are discussed in detail in related documents published in the **Federal Registers** of May 31, 1989 (54 FR 23209) for cottonseed and August 2, 1989 (54 FR 31836) for citrus.

The Agency used a two-generation rat reproduction study with an uncertainty factor of 300 to establish a Reference Dose (RfD). The 300-fold uncertainty factor was utilized for (1) inter- and intra-species differences, (2) the extreme seriousness of pup death observed in the reproduction study, (3) maternal toxicity (lethality) no-observable-effect level (NOEL)(0.05 mg/kg/day), and (4) cleft palate in the mouse developmental toxicity study with isomer (NOEL = 0.06 mg/kg/day). Thus, based on a NOEL of 0.12 mg/kg/day from the two-generation rat reproduction and an uncertainty factor of 300, the RfD is 0.0004 mg/kg/body weight (bwt)/day.

A chronic dietary exposure/risk assessment has been performed for abamectin using the above RfD. Available information on anticipated residues and 100% crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance-level residues. The ARC from established tolerances and the current action is estimated at 0.000022 mg/kg bwt/day and utilizes 5.4 percent of the RfD for the U.S. population. The ARC for children, aged 1 to 6 years old, and nonnursing infants (subgroups most highly exposed) utilizes 13 and 18 percent of the RfD, respectively.

Generally speaking, the Agency has no cause for concern if anticipated residues contribution for all published and proposed tolerances is less than the RfD.

Because of the developmental effects seen in animal studies, the Agency used the mouse teratology study (with a NOEL of 0.06 mg/kg/day for developmental toxicity for the delta-8,9 isomer) to assess acute dietary exposure and determine a margin of exposure (MOE) for the overall U.S. population and certain subgroups. Since the toxicological end-point pertains to developmental toxicity, the population group of interest for this analysis is women aged 13 and above, the subgroup which most closely approximates women of child-bearing age. The MOE is calculated as the ratio of the NOEL to the exposure. For this analysis, the Agency calculated the MOE for high-end exposures for women ages 13 and above. The MOE for the high-end exposure is 200. Generally speaking, MOEs greater than 100 for data derived from animal studies are acceptable to the Agency.

The metabolism of the chemical in plants and livestock for this use is adequately understood. Any secondary residues occurring in meat, meat byproducts, or milk will be covered by existing tolerances for those commodities. There is no reasonable expectation of finite residues in poultry and swine commodities; therefore, no tolerances are necessary at this time. Adequate analytical methodology (HPLC-Fluorescence Methods) is available for enforcement purposes. Prior to publication in the Pesticide Analytical Manual, Vol. II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-304-5232.

The tolerances established by amending 40 CFR part 180 will be adequate to cover residues in or on lettuce. There are currently no actions pending against the continued registration of this chemical. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined

that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 3, 1995.

**Stephen L. Johnson**,  
*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR part 180 is amended as follows:

#### PART 180—AMENDED

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 371.

2. In § 180.449, by revising paragraph (b), to read as follows:

**§ 180.449 Avermectin B<sub>1</sub> and its delta-8,9-isomer; tolerances for residues.**

\* \* \* \* \*

(b) Tolerances are established for the combined residues of the insecticide avermectin B<sub>1</sub> and its delta-8,9-isomer [a mixture of avermectin containing greater than 80 percent avermectin B<sub>1a</sub> (5-O-demethyl avermectin A<sub>1a</sub>) and less than 20 percent avermectin B<sub>1b</sub> (5-O-demethyl-25-di(1-methylpropyl)-25-(1-methylethyl) avermectin A<sub>1a</sub>)] in or on the following commodities:

Commodity	Parts per million
Celery .....	0.05
Lettuce, head .....	0.05
Strawberry .....	0.02
Tomatoes, fresh .....	0.01

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Public Land Order 7124

[NM-930-1430-01; NNMN 88049]

#### Public Land Order No. 7067, Correction; Withdrawal of National Forest System Land for Guadalupe Canyon Zoological Botanical Area; New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order will correct an error in the land description in Public Land Order No. 7067.

**EFFECTIVE DATE:** March 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jeanette Espinosa, BLM New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502, 505-438-7597.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

The land description in Public Land Order 7067, 59 FR 35859, July 14, 1994, is hereby corrected as follows:

The third column, line 3, which reads "sec. 24, NE $\frac{1}{4}$ NW $\frac{1}{4}$  and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;" is hereby corrected to read "sec. 24, NE $\frac{1}{4}$ SE $\frac{1}{4}$  and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;"

Dated: March 2, 1995.

**Bob Armstrong**,

*Assistant Secretary of the Interior.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 24

[GEN Docket No. 90-314, ET Docket No. 92-100, FCC 95-92]

#### Personal Communications Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** On March 3, 1995, the Commission released a Memorandum Opinion and Order revising certain sections of its Rules governing the Personal Communications Services (PCS). The action in the instant Order responds to petitions for reconsideration filed by Morgan Stanley Partnerships on September 6 and October 7, 1994 in the Commission's broadband and